

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ERIC W. BIGGERS,

*Plaintiff*

VS.

BP PRODUCTS NORTH AMERICA  
INC., BP AMERICA INC. AND INEOS  
STYROLUTION AMERICA, LLC.

*Defendants.*

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CIVIL ACTION NO. \_\_\_\_\_

**INDEX OF MATTERS BEING FILED**

As required by Local Rule 81, Defendants provide the following index of matters being  
filed:

Exhibit A	Plaintiff's Original Petition
Exhibit B	Copy of executed process for BP America Inc.
Exhibit C	Copy of executed process for BP Products North America Inc.
Exhibit D	Copy of executed process for INEOS Styrolution America LLC
Exhibit E	BP America Inc. and BP Products North America Inc.'s Original Answer
Exhibit F	INEOS Styrolution America LLC's Original Answer
Exhibit G	List of All Counsel
Exhibit H	Docket Sheet in State Court Action
Exhibit I	State Court Notice of Filing of Removal

# Exhibit A

Cause No. \_\_\_\_\_

**Eric W. Biggers,**  
***Plaintiffs,***§  
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§**IN THE DISTRICT COURT****v.****\_\_\_\_ JUDICIAL DISTRICT****INEOS Styrolution America, LLC,**  
**BP Products North America, Inc.,**  
**and BP America, Inc.**  
***Defendant.*****HARRIS COUNTY, TEXAS*****Jury Trial Demanded*****PLAINTIFF'S ORIGINAL PETITION**

NOW COMES Plaintiff Eric W. Biggers, complaining of Defendants INEOS Styrolution America, LLC, BP Products North America, Inc., and BP America, Inc., and for cause of action would respectfully show the following:

**I. DISCOVERY LEVEL**

Plaintiff intends to conduct discovery under Level 2 of the Texas Rules of Civil Procedure Rule 190.3 and affirmatively pleads that he seeks monetary relief of in excess of the jurisdictional limits of this Honorable Court.

**II. PARTIES**

Plaintiff Eric W. Biggers is an individual residing in Texas. Plaintiff may be served with process by and through his counsel of record: Andrew J. Cobos and Nicholas G. Kacal, The Cobos Law Firm, 711 W. Alabama St., Houston, Texas 77006.

Defendant INEOS Styrolution America, LLC is a foreign limited liability company organized and/or existing under the laws of the state of Delaware. Defendant INEOS Styrolution America, LLC's principal offices are located at 4245 Meridian Pkwy., Ste. 151, Aurora, Illinois

60504. Defendant INEOS Styrolution America, LLC may be served through its registered agent: CT Corporation System at 1999 Bryan St., Ste. 900, Dallas, TX 75201-3136.

Defendant BP Products North America, Inc. is a foreign for-profit corporation organized and/or existing under the laws of the state of Maryland. Defendant BP Products North America, Inc.'s principal offices are located at 501 Westlake Park Blvd., Houston, Texas 77079. Defendant BP Products North America, Inc. may be served through its registered agent: CT Corporation System at 1999 Bryan St., Ste. 900, Dallas, TX 75201-3136.

Defendant BP America, Inc. is a foreign for-profit corporation organized and/or existing under the laws of the state of Delaware. Defendant BP America, Inc.'s principal offices are located at 501 Westlake Park Blvd., Houston, Texas 77079. Defendant BP America, Inc. may be served through its registered agent: CT Corporation System at 1999 Bryan St., Ste. 900, Dallas, TX 75201-3136.

### **III. JURISDICTION AND VENUE**

This Court has subject matter jurisdiction over this lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements. Pursuant to Texas Rule of Civil Procedure 47, Plaintiff is seeking monetary relief of over \$1,000,000.00. Additionally, removal to federal court would be improper because this lawsuit does not involve a federal question, this lawsuit lacks complete diversity, and because of the forum defendant rule.

This Court has personal jurisdiction over Defendant INEOS Styrolution America, LLC because Plaintiff's claims arise from the purposefully directed activities of Defendant INEOS Styrolution America, LLC in the state of Texas. Specifically, Defendant INEOS Styrolution America, LLC designed, manufactured and/or placed the chemical(s) at issue into the stream of commerce. Further, Defendant INEOS Styrolution America, LLC specifically serves the Texas market as a

marketplace for its goods, the incident occurred in Texas, Defendant INEOS Styrolution America, LLC has offices, employees, facilities, and property, in Texas, and Defendant INEOS Styrolution America, LLC entered into contracts with Texas entities in Texas.

This Court has personal jurisdiction over Defendant BP Products North America, Inc. because Plaintiff's claims arise from the purposefully directed activities of Defendant BP Products North America, Inc. in the state of Texas. Specifically, Defendant BP failed to act in a safe and reasonable manner prior to and during the incident as more fully described below. Furthermore, this Court has personal jurisdiction over Defendant BP Products North America, Inc.'s principal offices are located in the State of Texas.

This Court has personal jurisdiction over Defendant BP America, Inc. because Plaintiff's claims arise from the purposefully directed activities of Defendant BP America, Inc. in the state of Texas in that Defendant BP America, Inc. failed to act in a safe and reasonable manner prior to and during the incident as more fully described below. Furthermore, this Court has personal jurisdiction over Defendant BP America, Inc.'s principal offices are located in the State of Texas.

Venue is proper in Harris County under Texas Civil Practice & Remedies Code §15.002 because Harris County was the county of Defendant BP Products North America, Inc. and Defendant BP America, Inc.'s principal offices at the time the cause of action accrued.

#### **IV. MISNOMER/ALTER EGO**

In the event any parties are misnamed or are not included herein, it is Plaintiffs' contention that such was a "misidentification", "misnomer" and/or such parties are/were "alter egos" of parties named herein. Alternatively, Plaintiffs contend that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

## **V. REQUEST PURSUANT TO RULE 28**

To the extent that any Defendant is conducting business pursuant to a trade name or assumed name, then suit is brought against Defendant pursuant to the terms of Rule 28 of the Texas Rules of Civil Procedure, and Plaintiff demands that, upon answer to this petition, that Defendant answer in its correct legal and assumed name.

## **VI. FACTS**

On or about July 18, 2020, an industrial rail car owned by Defendant INEOS Styrolution America, LLC improperly released a hazardous chemical at BP's Texas City Chemicals plant located at 2800 FM 519, Texas City, Texas 77590. The flammable and carcinogenic nature of the chemical vapors prompted Texas City Officials to close several roads in the area and evacuate non-emergency personnel within a half mile radius of the release. Officials later determined that the railcar was filled with Styrene Monomer from the INEOS Styrolutions Texas City facility and had been in the BP rail yard since April 6, 2020.

Plaintiff Eric Biggers was exposed to the Styrene vapors during and after their release from the Styrolution rail car at the BP railyard. Plaintiff Biggers now suffers from breathing complications due to this harmful and negligent chemical release. The negligence and gross negligence of Defendant INEOS Styrolution America, LLC, Defendant BP Products North America, Inc., and Defendant BP America, Inc. in failing to reasonably prepare, inspect, and repair the storage tank proximately caused Plaintiff's injuries and damages, for which Plaintiff now brings this lawsuit.

## **VII. CAUSES OF ACTION**

### **1. NEGLIGENCE**

Plaintiff incorporates the foregoing factual allegations as if herein quoted verbatim and set forth herein at length.

Defendant INEOS Styrolution America, LLC owed a duty of reasonable care to the Plaintiff. Defendant breached the duty of reasonable care in one or more of the following non-exclusive ways, among others:

- a. Distributing and/or placing in the stream of commerce unreasonably dangerous and/or defective products;
- b. Creating a dangerous condition on the premises of another entity;
- c. Failing to institute precautionary measures to protect individuals in the vicinity of the release;
- d. Failing to create and/or enforce necessary policies and procedures;
- e. Failing to properly inspect, repair, and maintain the chemical storage tank at issue;
- f. Failing to properly and timely fix hazardous conditions of the chemical storage tank at issue;
- g. Failing to warn of the harmful effects associated with exposure to the carcinogenic chemicals;
- h. Failing to provide and/or recommend adequate safety control measures;
- i. Failing to properly train and/or supervise its employees responsible for servicing equipment; and
- j. Failing to have a safe plan and schedule in place for the work.

In addition or in the alternative to the allegations above, Plaintiff asserts that Defendant BP Products North America, Inc. and/or Defendant BP America, Inc. owed a duty of reasonable care to the Plaintiff. Defendants breached the duty of reasonable care in one or more of the following non-exclusive ways, among others:

- a. Failing to contain or reduce the release of chemicals from the storage tank at issue in a safe and reasonable manner;
- b. Failing to institute precautionary measures to protect individuals in the vicinity of the release;
- c. Failing to create and/or enforce necessary policies and procedures at the facility;

- d. Failing to properly inspect, repair, and maintain the chemical storage tank at issue;
- e. Failing to properly and timely fix hazardous conditions of the chemical storage tank at issue;
- f. Failing to warn of the harmful effects associated with exposure to the carcinogenic chemicals;
- g. Failing to properly inspect and address the work site;
- h. Failing to provide and/or recommend adequate safety control measures;
- i. Failing to warn of hazards;
- j. Failing to properly train and/or supervise its employees responsible for warning the public of emergencies, such as the release at issue;
- k. Failing to properly train and/or supervise its employees responsible for servicing equipment; and
- l. Failing to have a safe plan and schedule in place for the work.

Each of these acts and omissions, singularly or in combination with others, constitute negligence which was the proximate cause of this incident and Plaintiff's injuries.

## **2. GROSS NEGLIGENCE**

Plaintiff incorporates the foregoing factual allegations as if herein quoted verbatim and set forth herein at length.

In addition or in the alternative to the allegations above, Plaintiff will further show that the acts and/or omissions of Defendant INEOS Styrolution America, LLC, Defendant BP Products North America, Inc., and Defendant BP America, Inc., when viewed objectively from Defendants' standpoint, involve an extreme degree of risk considering the probability and magnitude of the potential harm to the public. Defendants had actual subjective awareness of the risk involved, but nevertheless proceeded in conscious indifference to the rights, safety, and/or welfare of others, including Plaintiff.



Defendant knew or should have known of the risk or risks associated, and its actions and omissions constitute gross negligence and malice as those terms are understood by law. Therefore, Plaintiff prays that punitive damages be awarded against Defendant. Plaintiff would show that nothing Plaintiff did, or failed to do, in any way contributed to this incident.

### **3. RES IPSA LOQUITUR**

Plaintiff incorporates the foregoing factual allegations as if herein quoted verbatim and set forth herein at length.

Defendant INEOS Styrolution America, LLC, Defendant BP Products North America, Inc., and/or Defendant BP America, Inc.'s negligence implicates the doctrine of *Res Ipsa Loquitur* because the character of the event made the basis of this lawsuit is such that it would not have occurred without negligence.

### **4. RESPONDEAT SUPERIOR / VICARIOUS LIABILITY**

Plaintiff incorporates the foregoing factual allegations as if herein quoted verbatim and set forth herein at length.

Under the doctrine of *Respondeat Superior*, Defendant INEOS Styrolution America, LLC, Defendant BP Products North America, Inc., and Defendant BP America, Inc. are responsible for Plaintiffs' damages caused by the acts and or omissions of Defendants' agents due to the relationship that existed at the time.

## **VIII. DAMAGES**

Plaintiff brings this lawsuit to recover for injuries sustained as a result of this incident. Plaintiff seeks damages for physical impairment in the past and future, medical expenses in the past and future, loss of earning capacity in the past and future, past and future pain and suffering, mental anguish, and loss of household services. Plaintiff also seeks punitive damages in such

amount as may be found proper and just under the facts and circumstances as determined by the jury. Further, Plaintiff seeks court costs, as well as pre-judgment and post-judgment interest at the appropriate rate allowed by law.

All conditions precedent have been performed or have occurred.

**IX. JURY DEMAND**

Plaintiff respectfully demands a jury trial and tenders the appropriate fee.

**X. PRAYER**

For these reasons, Plaintiff prays that Defendants be cited to appear and answer, and that upon final trial of this cause, Plaintiff have a judgment against Defendants for damages in an amount in excess of the minimum jurisdictional requirements of this Court. Plaintiff prays for all relief sought herein, and any other or further relief to which he may be entitled.

Respectfully submitted,

**THE COBOS LAW FIRM**

By: /s/ Nicholas G. Kacal  
Andrew J. Cobos  
State Bar No. 24078352  
Nicholas Kacal  
State Bar No. 24123106  
711 W. Alabama St.  
Houston, Texas 77006  
Telephone: (713) 234-5860  
Facsimile: (713) 234-5860  
andrew@cobos.law  
nicholas@cobos.law

**ATTORNEYS FOR PLAINTIFF**



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this July 1, 2022

Certified Document Number: 102230492 Total Pages: 8

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

# Exhibit B

## CAUSE NO. 2022-32516

BRIGGERS, ERIC W

§

IN THE DISTRICT COURT

Plaintiff,

§

VS.

§

133RD JUDICIAL DISTRICT

INEOS STYROLUTION AMERICA LLC

§

§

Defendant.

§

§

HARRIS COUNTY, TEXAS

AFFIDAVIT OF SERVICE

On this day personally appeared MITCHELL DRAEGER who, being by me duly sworn, deposed and said:

"The following came to hand on Jun 3, 2022, 9:30 am,

## CITATION, PLAINTIFF'S ORIGINAL PETITION,

and was executed at 1999 Bryan St #900, Dallas, TX 75201 within the county of DALLAS at 01:25 PM on Fri, Jun 03 2022, by delivering a true copy to the within named

BP AMERICA INC (FOREIGN FOR-PROFIT CORPORATION) MAY BE SERVED THROUGH ITS REGISTERED AGENT CT CORPORATION SYSTEM, BY DELIVERING TO BRETT BAGWELL, SOP INTAKE

in person, having first endorsed the date of delivery on same.

I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."



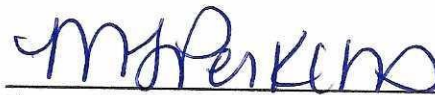
MITCHELL DRAEGER

Certification Number: PSC 7995 EXP.12-31-2023

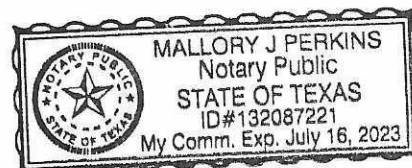
Certification Expiration:

BEFORE ME, a Notary Public, on this day personally appeared MITCHELL DRAEGER, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his or her personal knowledge and are true and correct.

SUBSCRIBED AND SWORN TO ME ON JUNE 6, 2022



Notary Public, State of Texas



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 65192677

Status as of 6/7/2022 11:51 AM CST

**Case Contacts**

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Kianna Zermeno		kianna@cobos.law	6/7/2022 11:30:31 AM	SENT
Andrew Cobos		andrew@cobos.law	6/7/2022 11:30:31 AM	SENT
Nicholas GKacal		Nicholas@Cobos.Law	6/7/2022 11:30:31 AM	SENT



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this July 1, 2022

Certified Document Number: 102337600 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

# Exhibit C



**CAUSE NO. 2022-32516****BRIGGERS, ERIC W**

§

**IN THE DISTRICT COURT**

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Plaintiff,

§

**VS.**

§

**133RD JUDICIAL DISTRICT**

§

**INEOS STYROLUTION AMERICA LLC**

§

Defendant.

§

**HARRIS COUNTY, TEXAS****AFFIDAVIT OF SERVICE**

On this day personally appeared **MITCHELL DRAEGER** who, being by me duly sworn, deposed and said:

"The following came to hand on **Jun 3, 2022, 9:30 am**,

**CITATION, PLAINTIFF'S ORIGINAL PETITION,**

and was executed at **1999 Bryan St #900, Dallas, TX 75201** within the county of **DALLAS** at **01:25 PM** on **Fri, Jun 03 2022**, by delivering a true copy to the within named

**BP PRODUCTS NORTH AMERICAN INC (FOREIGN FOR PROFIT CORPORATION) MAY BE SERVED THROUGH ITS REGISTERED AGENT CT CORPORATION SYSTEM, BY DELIVERING TO BRETT BAGWELL, SOP INTAKE**

in person, having first endorsed the date of delivery on same.

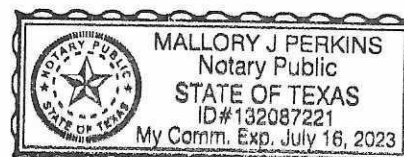
I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."

**MITCHELL DRAEGER**Certification Number: **PSC 7995 EXP.12-31-2023**

Certification Expiration:

**BEFORE ME**, a Notary Public, on this day personally appeared **MITCHELL DRAEGER**, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his or her personal knowledge and are true and correct.

**SUBSCRIBED AND SWORN TO ME ON JUNE 6, 2022**

  
Notary Public, State of Texas

**Automated Certificate of eService**

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Kianna Zermeno		kianna@cobos.law	6/7/2022 11:30:31 AM	SENT



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this July 1, 2022

Certified Document Number: 102337601 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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# Exhibit D

## CAUSE NO. 2022-32516

BRIGGERS, ERIC W

§

IN THE DISTRICT COURT

§

Plaintiff,

§

VS.

§

133RD JUDICIAL DISTRICT

§

INEOS STYROLUTION AMERICA LLC

§

Defendant.

§

HARRIS COUNTY, TEXAS

AFFIDAVIT OF SERVICE

On this day personally appeared MITCHELL DRAEGER who, being by me duly sworn, deposed and said:

"The following came to hand on Jun 3, 2022, 9:30 am,

## CITATION, PLAINTIFF'S ORIGINAL PETITION,

and was executed at 1999 Bryan St #900, Dallas, TX 75201 within the county of DALLAS at 01:25 PM on Fri, Jun 03 2022, by delivering a true copy to the within named

INEOS STYROLUTION AMERICA LLC (FOREIGN LIMITED LIABILITY COMPANY) MAY BE SERVED THROUGH ITS REGISTERED AGENT CT CORPORATION SYSTEM, BY DELIVERING TO BRETT BAGWELL, SOP INTAKE

in person, having first endorsed the date of delivery on same.

I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."



MITCHELL DRAEGER

Certification Number: PSC 7995 EXP.12-31-2023

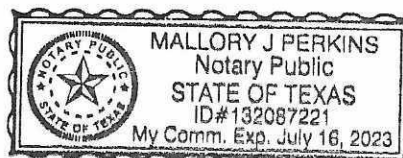
Certification Expiration:

BEFORE ME, a Notary Public, on this day personally appeared MITCHELL DRAEGER, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his or her personal knowledge and are true and correct.

SUBSCRIBED AND SWORN TO ME ON JUNE 6, 2022



Notary Public, State of Texas



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Kianna Zermeno		kianna@cobos.law	6/7/2022 11:30:31 AM	SENT



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this July 1, 2022

Certified Document Number: 102337602 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

# **Exhibit E**



**CAUSE NO. 202232516****ERIC W. BIGGERS***Plaintiff*

v.

**INEOS STYROLUTION AMERICA, LLC,  
BP PRODUCTS NORTH AMERICA, INC.,  
and BP AMERICA, INC.***Defendants*§  
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§**THE DISTRICT COURT OF****HARRIS COUNTY, TEXAS****133<sup>RD</sup> JUDICIAL DISTRICT****DEFENDANTS BP PRODUCTS NORTH AMERICA INC. AND BP AMERICA INC.'S  
ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW BP PRODUCTS NORTH AMERICA INC. AND BP AMERICA INC.,  
(hereinafter referred to collectively as "Answering Defendants") in the above-entitled and  
numbered cause, and file this their *Original Answer* and would respectfully show as follows:

**ORIGINAL ANSWER**

1. Answering Defendants assert a general denial as is authorized by TEX. R. CIV. P. 92, and respectfully request that Plaintiff be required to prove the charges and allegations contained in his Petition by a preponderance of the evidence. Further, Answering Defendants are incorrect parties to this litigation because they did not own or operate the premises and/or the equipment in question.

2. Answering Defendants reserve the right to amend this answer.

3. In the alternative, in the unlikely event that Answering Defendants are found liable to the Plaintiff, Answering Defendants assert their right to contribution in proportion to the percentage of responsibility attributable to any other Defendants.

4. In the alternative, Plaintiff's injuries and damages, if any, and the occurrence made the basis of Plaintiff's suit, if any, were caused by the sole negligence or fault of the Plaintiff, Eric W. Biggers.

5. In the alternative, Plaintiff's damages and injuries, if any, and the occurrence made the basis of Plaintiff's suit, if any, were caused by the contributory negligence of the Plaintiff and/or the inattention of others for whom Answering Defendants are not responsible.

6. In the alternative, in the unlikely event that Answering Defendants are found liable to the Plaintiff, Answering Defendants assert their right to have the amount of damages recoverable from Answering Defendants reduced by the amount of any and all sums Plaintiff has received or may hereafter receive by way of any and all settlements arising from Plaintiff's claims and causes of action herein.

7. In the alternative, Plaintiff has failed to mitigate his damages.

8. If Plaintiff has sustained the injuries he alleges, such injuries are the result of pre-existing or subsequent conditions, injuries, diseases, and disabilities and/or the acts or omissions of parties over which Answering Defendants have no control and not the result of any act or omission on the part of Answering Defendants.

9. Answering Defendants aver that the occurrence made the basis of this suit was caused in whole or in part by third persons or parties over whom Answering Defendants had no control, and for whose acts and/or omissions Answering Defendants were neither in fact nor in law responsible, and said negligence was a proximate and/or sole cause of the incident in question.

10. Answering Defendants aver that any damages allegedly sustained by Plaintiff were the result of intervening and/or superseding acts and/or causes which were the proximate

and/or sole causes of those alleged damages, and for which Answering Defendants, or any other person, party or entity for which Answering Defendants would be responsible, were not responsible.

11. Alternatively, in the event that Answering Defendants are found liable to Plaintiff, any award of pre-judgment interest must be limited in accordance with §§ 304.101-304.108 of the Texas Finance Code and/or the common law.

12. Answering Defendants invoke the limitation on recovery for medical and healthcare expenses contained in §41.0105 of the Texas Civil Practice and Remedies Code.

13. Answering Defendants affirmatively allege that to the extent Plaintiff prays for punitive damages, such request should be denied as violative of the due process protections guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States, the provisions of the Eighth Amendment to the Constitution of the United States, and the Constitution of the State of Texas, Art. 1, §§ 13 and 19 and Art. 3, 10, 11, 12, 13, 14, 15, and 19.

14. To the extent Plaintiff seeks punitive damages, Answering Defendants invoke the limitations and restrictions on punitive and exemplary damages found in Chapter 41 of the Texas Civil Practice and Remedies Code, including § 41.008.

WHEREFORE, PREMISES CONSIDERED, Answering Defendants pray that upon final trial and hearing thereof, that Plaintiff take nothing against them, that Answering Defendants recover their costs, and for such other and further relief to which they may be entitled.

Respectfully submitted,

**HUNTON ANDREWS KURTH LLP**

By: /s/ Thomas W. Taylor

Thomas W. Taylor

State Bar No. 19723875

ttaylor@huntonak.com

Jeffrey B. McClure

State Bar No. 13428200

jeffmcclure@huntonak.com

Raymond G. Randle, Jr.

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Raymondrandle@huntonak.com

600 Travis Street, Suite 4200

Houston, Texas 77002

Telephone: (713) 220-4200

Fax: (713) 220-4285

ATTORNEYS FOR DEFENDANTS BP  
PRODUCTS NORTH AMERICA INC. AND  
BP AMERICA INC.

**CERTIFICATE OF SERVICE**

This is to certify that on this 24th day of June, 2022, the foregoing document has been e-filed with the Court and served on the below counsel through the Court's e-filing system, as follows:

Andrew J. Cobos  
Nicholas Kacal  
The Cobos Law Firm  
711 W. Alabama St.  
Houston, Texas 77006

/s/ Jeffrey B. McClure

Jeffrey B. McClure

**Automated Certificate of eService**

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Elizabeth Page on behalf of Thomas Taylor  
 Bar No. 19723875  
 elizabethpage@huntonak.com  
 Envelope ID: 65760044  
 Status as of 6/24/2022 3:06 PM CST

**Case Contacts**

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Fred Raschke		frschke@millsshirley.com	6/24/2022 2:04:14 PM	SENT
Kianna Zermeno		kianna@cobos.law	6/24/2022 2:04:14 PM	SENT
Andrew Cobos		andrew@cobos.law	6/24/2022 2:04:14 PM	SENT
Nicholas GKacal		Nicholas@Cobos.Law	6/24/2022 2:04:14 PM	SENT
Andrew J.Cobos		andrew@cobos.law	6/24/2022 2:04:14 PM	SENT
Nicholas Kacal		nicholas@cobos.law	6/24/2022 2:04:14 PM	SENT
Pam Fuchs		pfuchs@huntonak.com	6/24/2022 2:04:14 PM	SENT
Elizabeth Page		elizabethpage@huntonak.com	6/24/2022 2:04:14 PM	SENT
Raymond G.Randle, Jr.		rrandle@HuntonAK.com	6/24/2022 2:04:14 PM	SENT
Thomas W.Taylor		ttaylor@HuntonAK.com	6/24/2022 2:04:14 PM	SENT
Jeffrey B.McClure		jeffmcclure@huntonak.com	6/24/2022 2:04:14 PM	SENT
Jeffrey B.McClure		jeffmcclure@huntonak.com	6/24/2022 2:04:14 PM	SENT
Thomas W.Taylor		ttaylor@HuntonAK.com	6/24/2022 2:04:14 PM	SENT
Raymond G.Randle, Jr.		rrandle@HuntonAK.com	6/24/2022 2:04:14 PM	SENT
Peggy Estes		pestes@hunton.com	6/24/2022 2:04:14 PM	SENT



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this July 1, 2022

Certified Document Number: 102646813 Total Pages: 5

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

**Case No. 2022-32516**

ERIC W. BIGGERS	§	IN THE DISTRICT COURT OF
	§	
V.	§	
	§	HARRIS COUNTY, TEXAS
INEOS STYROLUTION AMERICA, LLC,	§	
BP PRODUCTS NORTH AMERICA, INC.,	§	
and BP AMERICA, INC.	§	133 <sup>rd</sup> JUDICIAL DISTRICT

**DEFENDANT INEOS STYROLUTION AMERICA LLC'S  
ANSWER TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF THE COURT:

Defendant INEOS Styrolution America LLC files this Answer to Plaintiff's Original Petition, and would respectfully show the Court the following:

**I. GENERAL DENIAL**

Pursuant to Tex. R. Civ. P. 92, Defendant denies each and all of the claims and allegations of Plaintiff.

WHEREFORE, PREMISES CONSIDERED, Defendant INEOS Styrolution America LLC prays that Plaintiff Eric W. Biggers takes nothing against Defendant, and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

By:   
Fred D. Raschke

State Bar No. 16551450

[fraschke@millsshirley.com](mailto:fraschke@millsshirley.com)

2228 Mechanic Street, Suite 400

Galveston, Texas 77550

Ph 409.763.2341 / Fax 866.674.7808

ATTORNEYS FOR DEFENDANT,  
INEOS Styrolution America LLC

### **CERTIFICATE OF SERVICE**

Pursuant to Texas Rules of Civil Procedure, by my signature above, I certify that a correct copy of this document was served electronically on June 24, 2022, on the following parties:

andrew@cobos.law

Andrew J. Cobos

nicholas@cobos.law

Nicholas Kacal

The Cobos Law Firm

711 W. Alabama St.

Houston, TX 77006

*Attorneys for Plaintiff*



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Karen Chevalier on behalf of Fred Raschke  
 Bar No. 16551450  
 kchevalier@millsshirley.com  
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 Status as of 6/24/2022 8:48 AM CST

**Case Contacts**

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Fred Raschke		frschke@millsshirley.com	6/24/2022 8:27:30 AM	SENT
Kianna Zermeno		kianna@cobos.law	6/24/2022 8:27:30 AM	SENT
Andrew Cobos		andrew@cobos.law	6/24/2022 8:27:30 AM	SENT
Nicholas GKacal		Nicholas@Cobos.Law	6/24/2022 8:27:30 AM	SENT



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this July 1, 2022

Certified Document Number: 102634296 Total Pages: 3

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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# Exhibit G

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ERIC W. BIGGERS,

Plaintiff

VS.

BP PRODUCTS NORTH AMERICA  
INC., BP AMERICA INC. AND INEOS  
STYROLUTION AMERICA, LLC.

*Defendants.*

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CIVIL ACTION NO. \_\_\_\_\_

## LIST OF ALL COUNSEL

As required by Local Rule 81, Defendants BP Products North America Inc. and BP America Inc.'s provide the following list of counsel:

For Plaintiff Eric W. Biggers:

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Nicholas Kacal  
State Bar No. 24123106  
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ATTORNEYS FOR DEFENDANTS  
BP PRODUCTS NORTH AMERICA INC. AND  
BP AMERICA INC.

# Exhibit H

**2022-32516**

**COURT:** 133rd

**FILED DATE:** 5/31/2022

**CASE TYPE:** Other Injury or Damage



**BIGGERS, ERIC W**

Attorney: KACAL, NICHOLAS

**VS.**

**INEOS STYROLUTION AMERICA LLC**

Attorney: RASCHKE, FRED D

**Docket Sheet Entries**

**Date**

**Comment**

# Exhibit I



**CAUSE NO. 2022-32516**

**ERIC W. BIGGERS,**  
*Plaintiff*

**VS.**

**BP PRODUCTS NORTH AMERICA  
INC., BP AMERICA INC. AND INEOS  
STYROLUTION AMERICA, LLC.,**  
*Defendants.*

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**IN THE DISTRICT COURT OF**

**HARRIS COUNTY, TEXAS**

**133RD JUDICIAL DISTRICT**

**NOTICE OF REMOVAL OF STATE COURT ACTION**

TO: Marilyn Burgess, Harris County District Clerk, 201 Caroline, Suite 420, Houston, TX 77002

Plaintiff, Eric W. Biggers, by and through his attorneys of record, Andrew J. Cobos and Nicholas Kacal, The Cobos Law Firm, 711 West Alabama St., Houston, Texas 77006

PLEASE TAKE NOTICE that on the 30th day of June, 2022, Defendants BP Products North America Inc., BP America Inc. (collectively referred to as “BP”) and INEOS Styrolution America, LLC, filed the attached Notice of Removal of Civil Action in the United States District Court for the Southern District of Texas, Houston Division. The removal was filed in reference to Cause No. 2022-32516; *Eric W. Biggers v. BP Products North America Inc., BP America Inc., and INEOS Styrolution America, LLC*; pending in the 133rd Judicial District Court of Harris County, Texas.

Respectfully submitted,

**HUNTON ANDREWS KURTH LLP**

By: s/ Thomas W. Taylor

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Federal Bar No. 3906  
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(713) 220-4285 (facsimile)  
ttaylor@huntonak.com

**ATTORNEY-IN-CHARGE FOR DEFENDANTS  
BP CORPORATION NORTH AMERICA INC.  
AND BP EXPLORATION & PRODUCTION INC.**

**OF COUNSEL:**

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**MILLS SHIRLEY L.L.P.**

By: /s/ Fred D. Raschke

Fred D. Raschke

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Andy “Andres” Soto

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Galveston, Texas 77550

Ph 409.763.2341 / Fax 866.674.7808

ATTORNEYS FOR DEFENDANT,  
INEOS Styrolution America LLC

**CERTIFICATE OF SERVICE**

Pursuant to the Texas Rules of Civil Procedure, this is to certify that a true and correct copy of the foregoing has been forwarded to all known counsel of record via File & Serve Xpress on this 1st day of July, 2022.

Andrew J. Cobos  
andrew@cobos.law  
Nicholas Kacal  
nicholas@cobos.law  
711 West Alabama St.  
Houston, Texas 77006

ATTORNEYS FOR PLAINTIFF

*s/ Thomas W. Taylor*  
Thomas W. Taylor